

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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THOMAS E. PEREZ, Secretary of Labor,
United States Department of Labor

NOT FOR PUBLICATION

Plaintiff,

ORDER
15-cv-5641(LDH) (GRB)

-against-

AP FACILITIES CONSULTANTS, INC., a Corporation,
ROBERT J. SCARETTA, a/k/a “Bob Wolf” individually
And as President

Defendant.

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LASHANN DEARCY HALL, United States District Judge:

On August 11, 2017, United States Magistrate Judge Gary Brown issued a report and recommendation (the “Report and Recommendation”) (ECF No. 18), wherein he recommended that Plaintiff Thomas E. Perez’s September 14, 2016 motion for sanctions against Defendants AP Facilities Consultants, Inc. (“AP Facilities”) and Robert J. Scaretta be granted. (*See* Pls.’ Mot., ECF No. 16). Specifically, Magistrate Judge Brown recommended that, pursuant to Federal Rule of Civil Procedure 37, Defendants’ answer be stricken and default judgment be entered. Objections to any report and recommendation must be filed with the Clerk of Court within fourteen (14) days of the date of service of the report. *See* Fed. R. Civ. P. 72(b)(2); 28 U.S.C. § 636(b)(1)(C). No objections were filed here.

On August 30, 2017, after the deadline to file objections had passed, Defendant Scaretta filed a motion to stay the case stating that he is “in ill health,” he is “unable to defend [him]self at this time,” and “[t]he [defendant] company is closed and has no money available for a lawyer to represent it.” (Def.’s Letter Mot. 1, ECF 19.) Defendant Scaretta requested “a continuance,

until the time that [he is] in good and able health to defend [him]self.” (Def.’s Letter Mot. 1, ECF 19.) By order dated September 7, 2017, Magistrate Judge Brown granted in part, and denied in part Defendant Scaretta’s motion to stay and modified his August 11, 2017 Report and Recommendation accordingly. (Sept. 7 2017 Electronic Order.) Specifically, Magistrate Judge Brown withdrew his Report and Recommendation as to Defendant Scaretta, in light of his personal challenges, and “withdrew” Plaintiff’s motion for sanctions as to Defendant Scaretta without prejudice to renew. With regard to Defendant AP Facilities, Magistrate Judge Brown denied the request for a stay; his findings on the motion for sanctions requesting entry of default judgment and sanctions remained unchanged. (Sept. 7 2017 Electronic Order.)

No objections were filed to the modified report and recommendation. Where no objections to a report and recommendation have been filed, “the district court need only satisfy itself that there is no clear error on the face of the record.” *Estate of Ellington ex rel. Ellington v. Harbrew Imports Ltd.*, 812 F. Supp. 2d 186, 189 (E.D.N.Y. 2011) (quoting *Urena v. New York*, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001)) (internal quotation marks and citations omitted). The Court has reviewed the Report and Recommendation for clear error and, finding none, hereby adopts the Report and Recommendation as the opinion of this Court.

Accordingly, Plaintiff's motion for sanctions as to Defendant AP Facilities is hereby granted. Defendant AP Facilities' answer is stricken and the Clerk of the Court is respectfully directed to enter the default of Defendant AP Facilities.

SO ORDERED:

/s/ LDH
LASHANN DEARCY HALL
United States District Judge

Dated: Brooklyn, New York
September 29, 2017